

RULE REVIEW

Office of Children and Family Services

Section 207 of the State Administrative Procedure Act (SAPA) requires that each State agency review, after five years and, thereafter, at five year intervals, each of its rules adopted on or after January 1, 1997 to determine whether such rules should be modified or continued without modification.

Pursuant to section 207 of SAPA, OCFS submits the following rules that were adopted during calendar years 2010, 2005 and 2000 and invites public comment on the continuation or modification of such rules. All section and part references are to Title 18 of the New York Code of Rules and Regulations (NYCRR). Comments should be sent to the attention of the following agency contact: New York State Office of Children and Family Services, Public Information Office, 52 Washington Street, Rensselaer, New York 12144. Email: info@ocfs.ny.gov. Comments must be received within 45 days of the date of publication of this Notice.

The following information relates to regulations promulgated in 2010, 2005 and 2000 that are scheduled for review during 2015:

1. CFS-06-10-0004-A Mandatory Disqualification of Foster and Adoptive Parents Based on Criminal History

Amended sections 421.27(d)(1) and 443.8(e)(1) and repealed sections 421.27(k) and 443.8(k) of Title 18 NYCRR to implement Chapter 623 of the Laws of 2008 relating to criminal history checks of applicants for certification or approval as foster or adoptive parents.

Analysis of the need for the rule: These regulations are necessary to implement Chapter 623 of the Laws of 2008 relating to criminal history record reviews of applicants for certification or approval as foster or adoptive parents. The regulations reflect amendments to federal and state statutory standards relating to situations where an applicant has been convicted of a mandatory disqualifying crime.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f), and 378-a(2), as amended by L. 2008, Ch. 623.

2. CFS-18-10-00005-A Foster Family Boarding Homes

Amended section 443.3(a)(4) and (5) of Title 18 NYCRR to allow for enhanced flexibility in regard to sleeping arrangements for siblings and half-siblings in foster family boarding homes.

Analysis of the need for the rule: These regulations are necessary for local social services districts and voluntary authorized agencies to have greater flexibility in placing siblings and half-siblings together in foster family boarding homes.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f) and 378(5).

3. CFS-21-10-00006-A Child Care Market Rate and Stimulus Regulations

Amended sections 404.5, 415.2 and 415.9 of Title 18 NYCRR to revise the market rates and address the expanded need for child care services caused by the economic downturn.

Analysis of the need for the rule: These regulations are necessary to carry out the legislative intent of the child care subsidy program to assist low income families in meeting their child care costs in programs

that provide for the health and safety of their children and to have child care subsidy payment rates that reflect the market conditions and that are adequate to enable subsidized families to access child care services comparable to other families not in receipt of child care subsidies. The regulations in section 415.9 that set forth the actual market rates are reviewed and updated on a biennial basis in accordance with federal law to reflect changes in child care market rates.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f), 410 and Title 5-C of Article 6.

4. CFS-21-10-00007-A Parent Advocate Regulations

Added section 441.2(o) and amended section 441.21(b)(1) and (2) of Title 18 NYCRR to add a new category of individuals who may complete casework contact requirements.

Analysis of the need for the rule: These regulations are necessary to expand the categories of individuals who may complete casework contact requirements to include parent advocates.

Legal basis for the rule: Social Services Law, sections 20(3)(d) and 34(3)(f).

5. CFS-39-10-00003-A Amendment of Definition of a Child for the Purpose of Adoption Subsidy and Criteria for the Continuation of Subsidies

Amended section 441.24 of Title 18 NYCRR to implement amendments to Section 453(1) of the Social Services Law required by Chapter 518 of the Laws of 2006 regarding the definition of a child for the purpose of adoption subsidy and criteria for the continuation of subsidies.

Analysis of the need for the rule: These regulations are necessary to implement the requirements of Chapter 518 of the Laws of 2006 requiring the amendment of the definition of child for the purpose of adoption subsidy and criteria for the continuation of subsidies.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f) and 450 through 458.

6. CFS-09-04-00015-A Statewide Automated Child Welfare Information System (SACWIS)

Amended Parts 428 and 441 and added Part 466 of Title 18 NYCRR to implement the State's SACWIS system, which helps to improve the efficiency of child welfare workers. A SACWIS system is necessary to meet the requirements of federal law and regulations and to protect federal financial participation.

Analysis of the need for the rule: These regulations are necessary to establish standards for the use of SACWIS by child welfare workers and to meet standards for federal financial participation.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f), and 446.

7. CFS-09-05-00011-A Uniform Case Records in Child Welfare Cases

Amended sections 404.1(d)(2), 432.2(b)(3), 441.7, 465.1, 466.4 and Part 428 of Title 18 NYCRR to support the uniform case record component of CONNECTIONS, which is New York's statewide automated child welfare information system (SACWIS), and to promote better child welfare casework practices.

Analysis of the need for the rule: These regulations are needed to establish standards for the completion and maintenance of uniform case records by child welfare caseworkers. Part 428 of the regulations was updated in 2005 to comply with the permanency hearing report and other reporting requirements enacted by Chapter 3 of the Laws of 2005.

Legal basis for the rule: Social Service Law, sections 20(3)(d), 153-k, 409-a(1), 427(1) and 446.

8. CFS-09-05-00010-A Approval or Certification of a Foster Home on an Emergency Basis

Amended sections 443.1 and 443.7 of Title 18 NYCRR to expand the circumstances in which an authorized agency may approve or certify a foster home on an emergency basis to include voluntary placements, and placements resulting from persons in need of supervision (PINS) and juvenile delinquency proceedings.

Analysis of the need for the rule: These regulations are necessary to establish standards for the emergency approval and certification of foster homes and to satisfy federal requirements for foster home certification. Section 443.7 was further amended in 2007 to comply with federal and state requirements governing criminal history background checks of foster parents and others residing in the foster home.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f) and 378(5).

9. CFS-45-99-00008-A Criminal History Record Checks

Amended sections 421.15(c), 421.19(e) and (g), 443.1(j), 443.3(a), (d), (e) and (o), 443.5(a), 443.7, 444.6 and 444.9 and added sections 421.27, 443.8 and 443.9 of Title 18 NYCRR regarding criminal history checks of prospective and existing foster and adoptive parents and persons over the age of 18 residing in their homes.

Analysis of the need for the rule: These regulations are necessary to promote the safety of foster children who need foster or adoptive homes by obtaining information regarding the criminal history of the adults in the homes for use when determining whether a particular home is an appropriate placement for foster or adoptive children.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f) and 378-a; L. 1999, Ch. 7.

10. CFS-00-19-00001-A Market Rates for Subsidized Child Care

Amended sections 415.1 and 415.9 of Title 18 NYCRR regarding market rates for subsidized child care.

Analysis of the need for the rule: These regulations are necessary to update the market rate local social services districts can pay for subsidized child care, and authorize higher payments for both accredited programs and those operating during non-traditional hours. The regulations in section 415.9 that set forth the actual market rates are reviewed and updated on a biennial basis in accordance with federal law to reflect changes in child care market rates.

Legal basis for the rule: Social Services Law, sections 20(3)(d), 34(3)(f), 410 and 410-x(4).